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FEDERAL COMMUNICATIONS COMMISSION
U.S. DEPARTMENT OF JUSTICE

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Application of)	MM DOCKET NO. 92-122
)	
CALVARY EDUCATIONAL)	
BROADCASTING NETWORK, INC.)	File No. BRED-891103UA
)	
For Renewal of License of)	
Station KOKS(FM),)	
Poplar Bluff, Missouri)	

To: Chief Administrative Law Judge
Joseph Stirmer

MASS MEDIA BUREAU'S
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

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Summary

The license renewal application of Calvary Educational Broadcasting Network, Inc. ("Calvary") for Station KOKS(FM) should be denied. Calvary did not comply with Section 73.318(b) of the Commission's Rules in that it failed to satisfy numerous blanketing interference complaints. Moreover, Calvary repeatedly misrepresented facts to the Commission by claiming that it had satisfied complaints of blanketing interference when, in fact, it had not done so. In addition, Calvary lacked candor by failing to advise the Commission that complaints reported as having been resolved were later found to be unresolved. While it is also concluded that Calvary's management and operation of Station KOKS(FM) was not inept, the Bureau ultimately concludes that Calvary's repeated failures to comply with the blanketing interference rule and its repeated failures to be truthful require denial of its license renewal application. In light of the fact that the Bureau has concluded that denial of Calvary's license renewal application is warranted, we do not recommend imposition of a forfeiture.

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MASS MEDIA BUREAU'S
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Preliminary Statement

1. By Hearing Designation Order, 7 FCC Rcd 4037 (1992), ("HDO"), the Commission designated for hearing the application of Calvary Educational Broadcasting Network, Inc. ("Calvary") for renewal of license of Station KOKS(FM) upon the following issues:

1. To determine whether Calvary violated Section 73.318 of [the] Commission's Rules, 47 C.F.R. § 73.318 ("FM blanketing interference"), and, if so, the nature and extent of this violation;
2. To determine whether Calvary has misrepresented facts or lacked candor in its statements to the Commission regarding the extent and success of its efforts to correct the blanketing interference problems;
3. To determine whether the licensee's management and operation of Station KOKS was so negligent, careless, or inept, or evidenced such disregard for the Commission's rules, that it cannot be relied upon to fulfill the responsibilities imposed upon it;
4. To determine, in light of the evidence adduced pursuant to the preceding issues, whether or not grant of the subject license renewal application would serve the public interest, convenience and necessity.

In addition, the HDO stated that if it were determined that the record did not warrant denial of Calvary's license renewal application, it should be determined whether a forfeiture should be imposed in the event Calvary willfully or repeatedly violated Sections 73.318, 73.1015, 73.267, 73.1560, 73.1213 and/or 73.3527 of the Commission's Rules. The HDO placed the burdens of proceeding with the introduction of evidence and of proof with respect to all issues upon Calvary.

2. A prehearing conference was held on July 16, 1992. Hearing sessions were held in Washington, D.C., on November 12, 1992, and in Poplar Bluff, Missouri, on November 17, 18, 19 and 20. The record was closed by Order, 92M-1071, released December 8, 1992, corrected by Erratum, released December 10, 1992. The Mass Media Bureau hereby submits its proposed findings of fact and conclusions of law.

Proposed Findings of Fact

Blanketing and Misrepresentation Issues

3. On March 2, 1987, Calvary filed with the Commission a construction permit application for a new noncommercial educational FM station on Channel 208C1 at Poplar Bluff, Missouri. The application was signed by Donald Stewart, president of Calvary. Calvary's board of directors included Stewart, his wife, Nina, and Jim Baggett. Stewart, Nina and Baggett were also identified as Calvary's three officers. MMB Ex. 12, pp. 2-3; Tr. 340.

4. The location chosen for Calvary's transmitter and antenna tower was property where the Stewarts had their personal residence.¹ KOKS Ex. 3, p. 2. The map showing the location of Calvary's proposed tower site (Exhibit B-2) revealed that a radio tower for KPOB-TV (Channel 15, Poplar Bluff) was located approximately one mile away. Also located less than one-half

¹ Shortly before KOKS went on the air, the Stewarts transferred this property to Calvary. Tr. 335, 400.

mile from Calvary's proposed site was a substation of the Missouri highway patrol. MMB Ex. 12, p. 7. Given the presence of nearby towers, the Stewarts understood from their consulting engineer, Kevin Fisher, that Calvary could easily obtain Federal Aviation Administration approval for its proposed tower. The Stewarts also believed that Calvary could build its tower quickly at the proposed site because there were no zoning restrictions on their land. Finally, the Stewarts chose to build the tower on land they already owned for reasons of economy. KOKS Ex. 3, p. 2; Tr. 338-39, 394-95.

5. Question 24 of Section V-B of FCC Form 340 states: "If the proposed antenna location is in or near a populated area, attach Exhibit No. _ a discussion of blanketing and the steps proposed to remedy any interference which may occur." Calvary responded "Does not apply." MMB Ex. 12, p. 12.

6. Fisher had prepared the engineering portion of Calvary's application. He based Calvary's response to Question 24 of Section V-B on his subjective assessment that the area surrounding the site was rural, that is, sparsely populated. KOKS Ex. 14, pp. 1-2. However, there is no indication that Fisher counted the number of residences within the station's blanketing contour. He did not discuss his conclusion regarding the nature of the population near the site or the potential for blanketing interference with anyone at Calvary prior to the commencement of broadcast operations. Ex. 14, p. 2; Tr. 334, 353, 406. Neither Don nor Nina Stewart knew why Calvary

responded as it did to the question about blanketing interference, and neither had any idea how many residences were located within two and one-half miles of the proposed tower. Tr. 340, 343-44, 399, 402. The station's engineer, among others, however, testified that the proposed tower's location was in a residential area. Tr. 227.

7. On September 6, 1988, Calvary filed its license application for Station KOKS. MMB Ex. 13. On October 6, 1988, at about 4 p.m., Calvary started broadcasting on KOKS pursuant to program test authority. MMB Ex. 14; KOKS Ex. 3, p. 3. Shortly thereafter, Calvary began to receive telephone calls from persons complaining that KOKS was causing interference to their reception of television and radio. Among the persons who called the station to complain were Doris Smith, Irma Jean Hillis (hereinafter Jean Hillis), Dairrel L. Denton, Jr., Clyde Freeman, Joanne Gray, Randy Soens and Marie Christian. KOKS Ex. 3, p. 3; MMB Ex. 3, p. 3; MMB Ex. 4, p. 3; MMB Ex. 6, p. 3; MMB Ex. 7, p. 3; Tr. 409.

8. Before KOKS began broadcasting, residents of the area near the KOKS tower generally were able to watch WSPD-TV, Channel 6, Paducah, Kentucky; KAIT-TV, Channel 8, Jonesboro, Arkansas; KFVS-TV, Channel 12, Cape Girardeau, Missouri; and KPOB-TV, Channel 15, Poplar Bluff. Tr. 166-67; MMB Ex. 2, p. 2; MMB Ex. 3, p. 2; MMB Ex. 4, p. 2. They were also able to listen to a number of FM radio stations, including KJEZ and KKLK. When KOKS began broadcasting, many of those residents complained

about severe KOKS interference to reception of Channel 6. Moreover, many of those persons were no longer able to watch Channel 8. Complainants also alleged to a lesser extent that KOKS was interfering with reception of Channels 12 and 15 and with reception of FM radio. MMB Ex. 2, p. 2; MMB Ex. 3, p. 2; MMB Ex. 4, p. 2; MMB Ex. 5, p. 2; MMB Ex. 6, p. 2; MMB Ex. 7, p. 2; MMB Ex. 8, p. 2; MMB Ex. 9, p. 2; MMB Ex. 10, p. 2; MMB Ex. 17, pp. 11-29, 33-37, 40-42, 46-48, 54; MMB Ex. 19, pp. 6-37, 59-68, 71; Tr. 409, 907, 977, 993. Because they watched television via a satellite system, the Stewarts did not experience any change in their reception when KOKS began broadcasting. KOKS Ex. 3, p. 2; Tr. 405.

9. When complaints about KOKS interference began, Calvary's principals did not know what to do. Neither the Stewarts nor any of their partners or consultants had made any provision either with respect to money or personnel for dealing with blanketing interference complaints, and no one at Calvary had had any prior experience resolving such complaints. Calvary did not even know what its obligations were since it did not possess a copy of the Commission's rules. Tr. 365, 393, 406, 413, 428, 723, 726, 731.

10. The first person who attempted to do anything to resolve a blanketing interference complaint was the station's engineer, Earl Abernathy. He visited the homes of Denton and Soens. Tr. 413, 1038. However, Abernathy did not satisfy either complainant. MMB Ex. 4, pp. 3, 7; MMB 17, pp. 90-93; Tr. 1039.

11. By letter dated October 21, 1988, the Commission's Kansas City Field Operations Bureau office (Kansas City FOB) sent Calvary two written complaints of blanketing interference. Kansas City FOB instructed Calvary to contact the complainants and take appropriate action, which would depend upon the equipment affected and whether the complainants resided within the blanketing contour. The letter included an explanation of the licensee's responsibilities under the blanketing interference rule as well as articles providing guidance and suggestions for resolving blanketing interference problems.² Specific filters were named and diagrams were provided to assist in the installation of the filters. Kansas City FOB requested that Calvary submit a report of its investigation of the complaints to the Kansas City field office within ten days of receipt of the October 21, 1988, letter. KOKS Ex. 3, Attachment A.

12. Calvary received Kansas City FOB's October 21, 1988, letter sometime in late October. The complaints referenced were from Denton and Soens. MMB Ex. 4, p. 7; Tr. 414. Calvary ultimately reported to Kansas City FOB by letter dated December 6, 1988, that both Denton and Soens had boosters and were therefore excluded from protection from blanketing interference. MMB 15, p. 1; Tr. 359-61, 412-14, 724-26. However, Calvary never ascertained that Denton had two television sets that were

² The attachment incorrectly stated that "portable receivers" are exempt from the FM blanketing interference rule. The rule contains no such exemption. See Section 73.318 of the Commission's Rules.

adversely affected by KOKS and not connected to the booster. MMB Ex. 4, pp. 2-4.

13. Shortly after Calvary received the October 21, 1988, letter, Kansas City FOB sent some 30 to 35 additional complaints of blanketing interference to Calvary. To address these complaints, Don Stewart telephoned consulting engineer Kevin Fisher to explore possible solutions. Fisher suggested that Calvary try a "string" filter, which is flat antenna wire cut to a specific length that is dictated by the frequency to be filtered. After determining how long each wire should be, Don Stewart directed Abernathy to make a number of string filters. Don Stewart took string filters to the homes of Smith and Thomas Crutchfield. Neither Smith nor Crutchfield was satisfied with the string filter. KOKS Ex. 2, p. 3; KOKS Ex. 3, pp. 5-6; MMB Ex. 2, pp. 3, 12; Tr. 419, 727-28, 736-37, 911-12, 916-19. Calvary also telephoned a number of complainants but did nothing for them after learning that their principal complaints concerned reception of Channel 6. MMB 17, pp. 84-85.

14. On December 6, 1988, Calvary submitted its first report of its activities regarding blanketing interference complaints to Kansas City FOB. Calvary stated that most of the complaints did not warrant further action on its part, either because the complaint had been withdrawn, the complainant had a booster, or the only channel affected by KOKS was Channel 6 from Paducah. In Calvary's view, it had no obligation to eliminate interference to Channel 6 because Poplar Bluff is located outside

Channel 6's Grade B contour. Calvary acknowledged that six complaints had not yet been resolved. The six complainants included Smith, Mary Wynn, and William (Bill) Hillis, Jean Hillis' husband. MMB Ex. 15, passim.

15. With respect to Smith, Calvary reported that she and her husband, Paul, had complained about interference to channels 6 and 12; that Calvary had provided a filter to the Smiths; and that, after the Smiths continued to complain, Calvary offered to install a filter on their outside antenna. According to Calvary, Smith had refused to give Calvary permission to walk on the roof of her home. Pointing to Smith's October 25, 1988, letter to the Commission and her efforts to generate additional complaints relative to KOKS interference, Calvary suggested that Smith was not cooperative and that she would not be satisfied until KOKS' tower was dismantled. MMB Ex. 15, pp. 2-3; MMB Ex. 2, pp. 7-8; Tr. 509.

16. Meanwhile, in late November, 1988, Smith and Jean Hillis had prepared a form for those affected by KOKS to register their complaints with Kansas City FOB. The form called for the complainant to circle items believed to be affected by KOKS. Shortly thereafter, Smith and Hillis modified their complaint form to show whether the complainant had a booster, and to allow the complainant to specify which television channels were affected by KOKS. From December, 1988, through February, 1989, Smith and Hillis circulated the form in their neighborhood and left stacks of them at area grocery stores. After collecting

more than 100 signed forms, Smith and Hillis mailed copies of them to Kansas City FOB. Kansas City FOB received the first batch of complaints on December 19, 1988, and forwarded them to Calvary by letter dated December 22, 1988. Several days later, Smith and Hillis sent to Kansas City FOB fifty additional complaints, which were then forwarded to Calvary. MMB Ex. 3, p. 10; MMB Ex. 17, p. 1; Tr. 921-24, 1001-04. While Calvary was still in the process of investigating and responding to the complaints of KOKS blanketing interference, the Commission's Mass Media Bureau granted Calvary's license application. MMB Ex. 16.

17. Calvary submitted a report to Kansas City FOB relative to the first group of December complaints by letter dated January 24, 1989. Calvary reported that it had resolved nine complaints, including those of Leatha Piper and Wynn; that it had made filters available to 13 complainants, including Denton, who employed boosters; and that six complainants, including Crutchfield, had not cooperated with KOKS personnel. With respect to 18 persons whose only complaint was the loss of Channel 6, Calvary stated it had recommended a filter which would allow Channel 6 to be received. In a section entitled "Miscellaneous Responses," Calvary stated that complaints of Clara Freeman and Jean Hillis had not yet been resolved due to the unavailability of necessary filters; that Nina Stewart had been unable to contact Smith; and that Sandra Durbin's complaint was based on Channel 6. Finally, Calvary reported that Smith and her husband, Soens and Crutchfield had filed a civil lawsuit

against Calvary because of alleged KOKS interference. MMB Ex. 17, pp. 1-4.

18. By letter dated February 10, 1989, Calvary submitted a supplemental response to its January 24, 1989, letter. Among other things, Calvary reported that it had resolved the complaint of Clara Freeman; that it could not arrange a convenient appointment time with Edward Hodgins; and that Durbin had failed to keep her appointment. Calvary also informed the Commission that it had gone to the home of William Hillis (Jean Hillis' husband) with Charles Lampe, the station's contract engineer. Calvary asserted that KOKS was not interfering with Hillis' main television, which was connected to a satellite, and that Lampe had determined that alleged interference to a second television set was due to a short in the set. Calvary stated that to clarify Hillis' complaints it had requested that he reduce them to writing in as detailed a matter as possible. MMB Ex. 18, pp. 2-4.

19. By letter dated February 24, 1989, Calvary submitted its report relative to the second group of December complaints that had been forwarded to it by Kansas City FOB. Once again, Calvary reported that a number of complainants had problems only with Channel 6 and that for those complainants Calvary had recommended a filter to cure the problem. Likewise, Calvary stated that it had suggested a filter for those complainants who used a booster. Calvary also informed the Commission that it had cured the complaints of Clyde/Clara Freeman, Mrs. William T.

(Joanne) Gray, Leona Gunter, Durbin, and Elaine Libla. Calvary's report said nothing about the complaints of Smith and the Hillises.

20. With respect to Doris Smith, Calvary essentially claimed that, despite repeated attempts to resolve her problems, she would not cooperate. MMB Ex. 15, pp. 2-3. What Calvary did not disclose is that the only filters it had actually tried on Smith's televisions did not work. Tr. 737. Further, when Calvary reported that it had been unable to contact Smith, its own notes show that Nina Stewart told Smith that filters necessary to resolve Smith's complaints were unavailable and that Smith would be called as soon as Calvary obtained the filters. MMB Ex. 17, pp. 3, 84. However, Calvary never contacted Smith again until the Commission forced it to do so in late 1990. MMB Ex. 2, pp. 3-4, 7-8; MMB Ex. 25, passim; MMB Ex. 31; Tr. 515-16.

21. With respect to William and Jean Hillis, Calvary twice reported that their complaints had not yet been resolved, the second time because a necessary filter was unavailable. MMB Ex. 15, pp. 4-5; MMB Ex. 17, p. 3. When Calvary finally went to the Hillis residence in the company of its engineer, Charles Lampe, it reported that KOKS was not interfering with the Hillises' main television and that a second television had a short. In addition, because of the supposedly confusing nature of Mr. Hillis' complaints, Calvary indicated it would do no work on the Hillises' equipment until Mr. Hillis reduced his complaints to writing. MMB Ex. 18, pp. 3-4. What Calvary did not disclose was

that the Hillises had already reduced their complaints to writing and Jean Hillis had spoken to Nina Stewart on at least two prior occasions about KOKS interference to her television. MMB Ex. 3, p. 3; MMB Ex. 17, p. 85; MMB Ex. 21, pp. 175-77; Tr. 518. In addition, Calvary never showed the Hillis complaints to Lampe, and Lampe's written direct testimony in this proceeding is studiously silent about what he observed at the Hillis residence in 1989. KOKS Ex. 1, p. 6; Tr. 232. Moreover, Nina Stewart now admits that she heard KOKS audio on Channel 6 when she was at the Hillis residence in 1989, while three visits by the Commission's Field Operations Bureau to the Hillis residence confirm that KOKS had adversely affected the quality of the reception of three television channels at the Hillis residence. Tr. 530; KOKS Ex. 5, p. 3; KOKS Ex. 6, p. 7; MMB Ex. 1, p. 31. Finally, despite the fact that Jean Hillis ultimately submitted specific detailed complaints in her December 1989, petition to deny, Calvary made no effort to contact the Hillises to review their television reception problems until forced to do so by the Commission in late 1990. Calvary sought to excuse its failure for not contacting the Hillises on Mr. Hillis' failure to send Calvary a written list of his complaints. Tr. 522-28; MMB Ex. 23, pp. 2-3.

22. With respect to Sandra Durbin, Calvary variously reported that her only complaint concerned Channel 6, that she failed to keep an appointment with KOKS personnel, and that her interference problems were cured with the installation of a filter. MMB Ex. 15, p. 2; MMB Ex. 17, p. 3; MMB Ex. 18, p. 3;

MMB Ex. 19, p. 2; MMB Ex. 21, p. 9. What Calvary never disclosed to the Commission was that Durbin had complained about interference to channels in addition to Channel 6, that Calvary had cancelled its first appointment with her, and that Durbin called Nina Stewart and later complained repeatedly in writing that the filter Calvary installed did not work. MMB Ex. 5, pp. 3-4, 11-12, 17. However, Calvary never returned to Durbin's residence or offered further assistance. MMB Ex. 5, p. 4. Tr. 554.

23. With respect to Edward Hodgins, Calvary sought to excuse its failure to resolve his complaints by reporting that it could not arrange a convenient time for an appointment. MMB Ex. 18, p. 2. Calvary never disclosed Hodgins' complaint of February 26, 1989, that Calvary had failed to keep three appointments. MMB Ex. 8, pp. 5-6. Moreover, Calvary never contacted Hodgins again until the Commission forced it to do so in late 1990. MMB Ex. 25, passim.

24. Similarly, Calvary's accounts of its "resolution" of the complaints of Mary Wynn and Joanne (Mrs. William T.) Gray were never corrected to reflect that both complained almost immediately thereafter and pointedly disagreed with Calvary's assessment of its repairs. Calvary reported curing Wynn's complaints in its January 24, 1989, letter. However, Wynn disputed Calvary's statement in complaints dated January 19, 1989, February 24, 1989, and June 9, 1989. MMB Ex. 17, p. 2; MMB Ex. 10, pp. 9-14. Calvary reported that it had resolved Gray's

complaints in its February 24, 1989, letter. However, Gray disagreed in a complaint dated February 23, 1989, two days after Calvary's visit to her home, and repeated her complaint on June 7, 1989. MMB Ex. 19, p. 2; MMB Ex. 7, pp. 9-12. Although Nina Stewart read the complaints made by Wynn and Gray, she neither amended Calvary's reports to the Commission, nor did she return to attempt any further repairs.³ Tr. 436-37, 446-50, 653-55.

25. Calvary's January 24, 1989, and February 24, 1989, reports also misled the Commission by suggesting that Calvary had resolved all problems for which it was responsible because Calvary almost never resolved complaints of KOKS interference to radios. Thus, although Denton's December 7, 1988, complaint alleges KOKS interference to radios, Calvary reported that Denton had a booster, while its notes concerning Denton reflect that Calvary had made a filter available only for his television. MMB Ex. 4, p. 9; MMB Ex. 17, pp. 2, 37. Similarly, Calvary never resolved alleged KOKS interference to the radios of Cindy Diel, Willard Garrison, Karen McCullen, Fred Dicker, Tammy Earls, Dorothy Robbins, Scott Lundstrom, Charles Sisk and Georgia Young, who were among the first group of December complainants; nor did

³ The Bureau submits that Wynn's testimony that Nina Stewart visited her home only twice (January, 1989, and September, 1991) is more creditable than Nina Stewart's testimony that she visited Wynn's home a third time (April, 1989). Tr. 439-44, 610-11, 653-55. In any event, Calvary never informed the Commission about Wynn's complaints of June 9, 1989, and December 1, 1989, and only went to Wynn's home in 1991 after Wynn sought reimbursement for a filter she had recently purchased. Tr. 437, 655-58; MMB Ex. 10, pp. 14-16.

it address alleged KOKS interference to the radios of Ted Smith, Richard Starling, Denise Mabry, Frieda Paris, Peggy Beckham, George Wisdom, Durbin and Kathy Kearbey, who were among the second group of December complainants. MMB Ex. 17, pp. 12, 16, 20-22, 33, 35-36, 40; MMB Ex. 19, pp. 8, 21-22, 31, 34, 37, 62-63. Finally, Calvary never addressed alleged KOKS interference to the radios of Doris Smith and Jean Hillis. MMB Ex. 2, pp. 7, 10, 14, 16, 19; MMB Ex. 3, p. 7; KOKS Ex. 6, pp. 6-7; Tr. 515-16.

26. Calvary reported that it installed or provided "filters" to complainants of KOKS interference. However, Calvary never identified the filters. Initially, Calvary used inexpensive string filters, most of which were installed by Nina Stewart. Sometime between December 1988 and February 1989, Calvary generally stopped installing string filters and began to install more expensive Archer FM trap (O-75) filters which it purchased from Radio Shack for approximately \$4.00 each. Tr. 252, 457-58; MMB Ex. 32, pp. 5-7. The information provided to Calvary by Kansas City FOB indicates that Archer filters, although apparently more effective than the string filters, were not designed to address the severe interference caused by KOKS to residents located near the station's tower. KOKS Ex. 3, Attachment A, May 1, 1988, Radio World p. 17; Tr. 252-54, 258. Nevertheless, Calvary continued to install and/or recommend the Archer filters even after it began installing the more expensive FM notch filters which it purchased from Microwave Filter Company. MMB Ex. 27, p. 63; MMB Ex. 32, pp. 1-5.

27. Calvary's reports that it had resolved a number of complaints and that it had satisfactorily addressed complaints which arose from the use of boosters or which stemmed solely because of interference to Channel 6 were disputed almost immediately. Complaints dated in January, February and March, 1989, were submitted to Kansas City FOB. In turn, Kansas City FOB sent these new complaints to Calvary. Although Nina Stewart generally telephoned first-time complainants to determine whether a filter should be installed on a complainant's television set, e.g., MMB Ex. 21, pp. 30, 34, 40, 45, 49, 59, 70, she usually failed to contact complainants who had already received a visit. Their complaints were usually placed in a file without anything further being done. E.g., Tr. 446-50, 469, 552-57.

28. On March 15, 1989, Kansas City FOB referred the KOKS matter to the Mass Media Bureau. By letter dated March 29, 1989, the Chief, FM Branch sent to Calvary copies of 698 complaints of KOKS blanketing interference. The Chief explained the requirements of the blanketing interference rule (Section 73.318 of the Commission's Rules) and informed Calvary that the blanketing contour for its station extended 2.45 miles in the major lobe. Calvary was instructed that, with respect to each complaint, it was to identify the type of interference; whether the interference was in the blanketing area; the dates and description of the assistance provided by Calvary; and whether or not the interference had been resolved. Finally, Calvary was directed to include with its report a map which showed the KOKS

transmitter site, the blanketing contour, and the homes of all complainants. The Commission gave Calvary 45 days to submit its report. MMB Ex. 20.

29. On May 3, 1989, before Calvary submitted the requested report, Kansas City FOB visited the homes of complainants Smith and Jean Hillis. The FOB report of the visit reveals that Smith could not receive either Channel 6 or 8 and that the picture of Channels 12 and 15 was degraded by heavy snow. KOKS audio was in the background of all four channels. At the Hillis residence, the FOB inspector found that Channels 6 and 8 were unviewable, while Channels 12 and 15 had good picture and sound. When KOKS went off the air, the Hillises could receive Channel 6 but Channel 8 "remained bad." KOKS Ex. 5, passim.

30. Calvary responded to the Commission's March 29, 1989, letter on September 22, 1989. At the outset, Calvary noted that it had already responded to many of the complaints in its prior letters to Kansas City FOB. Nonetheless, Calvary also contended that its responses to complaints had been delayed by technical difficulties and by limited financial resources. In this regard, Calvary blamed a lack of money for its failures to supply a map displaying its blanketing contour and to use such a map in preparing its September 22, 1989, response. What Calvary did not tell the Commission, however, was that its last contact with a complainant was May 9, 1989, more than four months before Calvary's report was submitted. MMB Ex. 21, pp. 35, 59 and 112.

31. Calvary estimated that only 89 of the complainants

resided within the blanketing contour. Calvary stated that unless the complainant was personally known by station personnel, it determined whether or not the complainant resided within the blanketing contour based on the estimate provided by the complainant as to how far the complainant lived from the KOKS tower. Tr. 467-68; MMB Ex. 21, pp. 1-4.

32. With respect to the 89 complainants found to be within the blanketing contour, Calvary concluded that only eight had experienced blanketing interference. Calvary reported that the complaints of all eight had been resolved. Calvary excluded those who complained only of KOKS interference to reception of Channel 6, Paducah; those who possessed a booster; those who would not cooperate with station personnel; and those who possessed satellite dishes. Calvary also reported that it had resolved non-blanketing interference problems for 17 of the 89 complainants within the blanketing contour. MMB Ex. 21, pp. 1-4.

33. Calvary's report reflects that the eight complainants deemed to have experienced blanketing interference included Durbin and Gray. With respect to Durbin, Calvary's notes show that a filter put on her television on February 21, 1989, improved her reception "very much." MMB Ex. 21, p. 43. However, consistent with its letters to Kansas City FOB, Calvary did not inform the Commission about subsequent complaints, including Durbin's June 7, 1989, complaint of continued KOKS interference to both her television and her radio. MMB Ex. 5, pp. 11-12; Tr. 552-55. As for Gray, Calvary's report did not state when Calvary

had supposedly cured Gray's blanketing interference; however, the report reveals only one visit to Gray. With respect to that visit, Calvary stated unequivocally that it cured blanketing interference to Channel 8. MMB Ex. 21, p. 12. However, Gray complained on February 23, 1989, that Calvary's visit of February 21, 1989, had not improved reception on Channels 6, 8 and 12. Gray repeated her complaint on June 7, 1989. Moreover, both of Gray's complaints stated that Calvary had not resolved interference to her radio. MMB Ex. 7, pp. 9-12. Calvary had received and read both the Durbin and Gray complaints before it submitted its September 22, 1989, report but did nothing except file them. Tr. 450, 553.

34. Clyde and Mary Freeman, Leatha Piper, and Mary Wynn were among the 17 whom Calvary reported to have experienced non-blanketing interference. With respect to all of them, Calvary reported that installation of filters had improved their reception. MMB Ex. 21, pp. 11, 16, 19, 48, 62, 81. However, Calvary never amended its report to address, nor did it challenge, Clara Freeman's informal objection that the filter placed on the Freemans' television was "no help." MMB Ex. 6, p. 6. Moreover, Calvary did not truthfully report about Wynn and Piper in that both of them had complained in June 1989 of continued interference, and Calvary had made no attempt to address Piper's complaints of interference to her radio. MMB Ex. 10, p. 14; MMB Ex. 29, pp. 5-6; Tr. 437, 440, 463-65. Finally, Calvary's suggestion that it owed no further duty to Piper

because she had installed a booster failed to disclose that the repairs to Piper's television reception, which included the installation of a booster, had been made by Charles Lampe, KOKS' engineer; that Piper had paid Lampe in his individual capacity;⁴ and that Calvary had refused Piper's request to reimburse her for her payment to Lampe. MMB Ex. 29, p. 6; Tr. 631-32.

35. In addition, Calvary, as it had failed to do in its reports to Kansas City FOB, failed to note or inaccurately represented the situations of Hodgins, Smith, and Jean Hillis. Thus, although Hodgins had complained that Calvary failed to keep three appointments with him, Calvary's report is silent as to Hodgins. MMB Ex. 8, pp. 5-6. Likewise, although Smith had complained repeatedly about KOKS interference to her televisions and radio, the report's only reference to her was that a lawsuit initiated by her and three others had been dismissed. Finally, with respect to Jean Hillis, Calvary acknowledged her complaints but suggested that it need not do anything because she was a party to Smith's lawsuit. MMB Ex. 2, pp. 6-17; MMB Ex. 21, pp. 2, 26.

36. The factual representations in Calvary's letter were verified by Nina Stewart. MMB Ex. 21, p. 183. All of the information submitted by Calvary in its letters of December 6, 1988, January 24, 1989, February 10, 1989, and February 24, 1989,

⁴ In addition to being the contract engineer for KOKS and KJEZ-FM, Poplar Bluff, Lampe owns and operates a television repair business in Poplar Bluff known as Charlie's TV Repair. KOKS Ex. 1, p. 1.

to Kansas City FOB, and its letter of September 22, 1989, to the Chief, FM Branch, was transmitted by Nina Stewart to counsel. Tr. 449, 510-11, 522, 553. She was the person who received many of the complainants' telephone calls, arranged for home visits, and installed Calvary's filters. Nina Stewart established and maintained complainants' files, and she read each complaint Calvary received from the Commission. Tr. 424, 458, 469. However, inexplicably, she did not review a complainant's file before going to that person's residence. Tr. 495. Moreover, when she was confronted with the disparities between her statements to the Commission and her knowledge of complainants' assessments of Calvary's resolution of their complaints, she provided no explanation. Tr. 450, 464, 539, 552-53, 556-57.

37. Although Calvary employed television repairman Charles Lampe, it seldom used him or asked for his advice prior to February 1991. Until then, Nina Stewart alone made virtually all the home visits on behalf of Calvary to restore reception to equipment allegedly affected by KOKS blanketing interference. Tr. 423, 488, 578. Prior to her work at KOKS, Nina Stewart had had no experience repairing televisions or radios. Tr. 393.

38. On November 3, 1989, Calvary filed its application for renewal of license for Station KOKS. On December 23, 1989, petitions to deny the application were filed by Smith and Jean Hillis. In addition, informal objections to Calvary's renewal application were filed by various persons including Denton, Durbin, Clara Freeman, William T. Gray (Joanne Gray's husband),

Wynn and Piper. The petitions and informal objections generally alleged that Calvary had not resolved KOKS interference to televisions and radios. Piper also alleged that she had spent more than \$100 in attempting to restore her reception.⁵ Finally, Smith and Clara Freeman charged that Calvary had lied to the Commission about its efforts to resolve their complaints. MMB Ex. 2, pp. 19-21; MMB Ex. 3, pp. 7-10; MMB Ex. 4, pp. 11-12; MMB Ex. 5, p. 17; MMB Ex. 6, p. 6; MMB Ex. 7, p. 17; MMB Ex. 10, p. 16; MMB Ex. 29, pp. 7-8.

39. In responding to the Smith and Jean Hillis petitions, Calvary submitted, on January 30, 1990, a verified statement of Lampe. Therein, Lampe acknowledged his employment as Calvary's contract engineer and that he had discussed Smith's situation with her on many occasions. Lampe related that because Smith wanted her reception restored to what it was before KOKS began broadcasting, he believed there was little reason to attempt to resolve her complaints. With respect to Jean Hillis, he acknowledged being at her home but suggested that Calvary had not corrected her complaints because her husband had not submitted his complaints in writing to the station. MMB Ex. 23.

40. Meanwhile, on December 12 and 13, 1989, Kansas City FOB had conducted a second inspection of Station KOKS and visited the homes of various complainants of blanketing interference

⁵ Piper had employed and paid Lampe, KOKS' contract engineer. When she inquired about reimbursement from Calvary, Don Stewart told her the station had no money. MMB Ex. 29, pp. 6-8.